

RESOLUTION NO. 2009-27

A RESOLUTION OF THE LODI CITY COUNCIL CERTIFYING  
THE FINAL REVISED ENVIRONMENTAL IMPACT REPORT  
(EIR-03-01) RELATING TO THE LODI SHOPPING CENTER  
PROJECT; STATE CLEARINGHOUSE NO. 2003042113

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WHEREAS, an application was filed by Browman Development Company for a commercial shopping center at 2640 W. Kettleman Lane, more particularly described as Assessor's Parcel Numbers 058-030-08 and 058-030-02 and a portion of 058-030-09; and

WHEREAS, the Community Development Director made a determination that the project may have a potentially significant impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR was prepared and distributed to reviewing agencies on April 14, 2003; and

WHEREAS, the Draft EIR (DEIR) was released for circulation on August 5, 2004; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on September 9, 2004. Public comments on the DEIR were taken at this hearing; and

WHEREAS, a Final EIR (FEIR) responding to all public comments on the DEIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on November 22, 2004; and

WHEREAS, on December 8, 2004, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a public hearing before said Commission; and

WHEREAS, the Planning Commission of the City of Lodi reviewed and certified the FEIR prepared for the project; and

WHEREAS, that certification and approval was appealed to the Lodi City Council; and

WHEREAS, the Lodi City Council, on appeal, reviewed and certified the FEIR prepared for the project (Resolution No. 2005-26, February 3, 2005); and

WHEREAS, the Lodi City Council rescinded the certification of the FEIR and approval of the project on May 3, 2006, pursuant to Superior Court Order of December 19, 2005, which order directed revisions to be made to the EIR; and

WHEREAS, in response to the Court Order, the City prepared a NOP for the Revisions to the EIR (REIR) and distributed it to reviewing agencies on September 25, 2006; and

WHEREAS, the Draft Revisions to the EIR (DREIR) was released and circulated on October 17, 2007, for public comment and review; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on November 14, 2007. Public comments on the DREIR were received at this hearing; and

WHEREAS, a Final Revisions to the EIR (FREIR), which includes the DREIR as revised and responses to all public comments on the DREIR submitted prior to the expiration of the comment period, was prepared and released to the public and commenting agencies on August 26, 2008; and

WHEREAS, on October 8, 2008, the Planning Commission of the City of Lodi held a hearing on the adequacy of the FREIR, and the Planning Commission declined to certify the FREIR; and

WHEREAS, Wal-Mart Stores, Inc. and Browman Development Company have each filed timely appeals of the Planning Commission's denial of the FREIR to the City Council; and

WHEREAS, the California Environmental Quality Act (CEQA) requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant effects, the decision-making agency make certain findings regarding those effects.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. THAT THE CITY COUNCIL hereby finds that full and fair public hearings have been held on the FREIR and the City Council having considered all comments received thereon said FREIR is hereby determined to be adequate and complete; and said FREIR is hereby incorporated herein by reference.
3. THAT THE CITY COUNCIL hereby determines, in connection with the proposed project identified in the FREIR, which includes a Use Permit and Tentative Map for the Lodi Shopping Center, that the FREIR has been prepared in compliance with CEQA and the state and local environmental guidelines and regulations, that it has independently reviewed and analyzed the information contained therein, including the written comments received during the DREIR review period and the oral comments received at the public hearings, and that the FREIR represents the independent judgment of the City of Lodi as Lead Agency for the project.
4. THAT THE CITY COUNCIL does hereby find and recognize that the FREIR contains additions, clarifications, modifications, and other information in its responses to comments on the DREIR and also incorporates text changes to the DREIR based on information obtained from the City since the DREIR was issued. The City Council does hereby find and determine that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the DREIR have been proposed that would either lessen a significant environmental impact of the project or result in a new, substantial environmental impact; no feasible alternatives considerably different from those analyzed in

the DREIR have been proposed that would lessen the significant environmental impacts of the project; and the DREIR was adequate. Accordingly, the City Council hereby finds and determines that recirculation of the FREIR for further public review and comment is not warranted. (CEQA Guidelines Section 15088.5).

## CONCLUSION

The Final Revisions to the Environmental Impact Report for the Lodi Shopping Center project was completed in compliance with the California Environmental Quality Act, has been reviewed and considered by the City Council, and represents the City Council's independent judgment and analysis.

The Final Environmental Impact Report for the Lodi Shopping Center project, as amended by the Final Revisions to the Environmental Impact Report, is hereby certified pursuant to the California Environmental Quality Act.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the City Council of the City of Lodi that the Final Revised Environmental Impact Report (EIR-03-01) relating to the Lodi Shopping Center project, State Clearinghouse No. 2003042113, is hereby certified.

Dated: March 11, 2009

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I hereby certify that Resolution No. 2009-27 was passed and adopted by the City Council of the City of Lodi in a special meeting held March 11, 2009 by the following vote:

AYES: COUNCIL MEMBERS – Johnson, Katzakian, and Mayor Hansen

NOES: COUNCIL MEMBERS – Hitchcock and Mounce

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk